



WEB COPY

IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED : 11.04.2022

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

C.M.A.NO.3929 OF 2019

Stella Jebakani

... Appellant/Petitioner

Vs.

1. Putuluru Suryanarayana Reddy

2. The National Insurance Co. Ltd.,
Motor Third Party Hub, 3rd Floor,
No.751, Anna Salai,
Chennai-600 002.

... Respondents/Respondents

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act 1988 against the Judgment and Decree in M.C.O.P.No.4031 of 2014 dated 26.07.2019 on the file of the IV Judge, Small Causes Court, Motor Accidents Claims Tribunal, Chennai.

For Appellant : Mr.Amar D.Pandiya

For Respondents : Mrs.N.B.Surekha for R2
R1 - Served - No Appearance

JUDGMENT

The claimant has filed this appeal seeking an enhancement of the Award passed by the learned IV Judge, Small Causes Court, Motor Accidents Claims Tribunal, Chennai, in M.C.O.P.No.4031 of 2014.

2.This appeal is the second round of litigation in respect of the very same accident. The appellant/claimant had filed the above MCOP seeking compensation for the injuries sustained by him in a road accident. Earlier, an Award has been passed and the matter was taken up on appeal both by the 2nd respondent/Insurance Company in C.M.A.No.924 of 2018 and the



claimant in C.M.A.No.3364 of 2017. By order dated 04.07.2017, this Court had allowed the appeal filed by the Insurance Company, namely, C.M.A.No.924 of 2018 and set aside the order of the Tribunal and remitted back the matter for fresh consideration. The appeal filed by the claimant was dismissed. The case had been remitted to consider the issue as to whether the driver of the vehicle had possessed a valid driving license on the date of the accident?. It was for this limited purpose that the appeal was allowed and the matter remitted back to the Tribunal. After the matter was remitted, a reading of the impugned order passed in M.C.O.P.No.4031 of 2014 would show that the learned counsel for the claimant/appellant has not made any submission with reference to the compensation or claimed a higher compensation than what was already awarded. Considering the fact that the appeal filed by the appellant had been dismissed and added to this, the appellant had not advanced any argument before the Tribunal, the present appeal is not maintainable. This was the sum and substance of the arguments adduced on the side of the 2nd respondent Insurance Company.

3.On the other hand, the learned counsel for the appellant would submit that once the matter was remitted, it was open to the appellant to adduce evidence and seek for enhancement as the matter was being considered afresh.

4.However, this argument of the learned counsel for the appellant would have to be necessarily rejected for the simple reason that the remand was only to enable the Insurance Company to let in evidence with reference to the possession or otherwise of the driving license by the lorry driver. That apart, the order would indicate that the appellant has not made any argument or submission after the matter was remanded. Further, once the earlier appeal filed in C.M.A.No.3364 of 2017 seeking enhancement is rejected by a Division Bench the said order would act as res judicata qua the appellant in this appeal.

In the light of the above, this Court cannot entertain the appeal now filed. Therefore, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

mps



To

The IV Judge,
Small Causes Court,
Motor Accidents Claims Tribunal,
Chennai.

+1cc to M/s.N.B.Surekha, Advocate, S.R.No.24792

+1cc to M/s.Amar D.Pandiya, Advocate, S.R.No.25002

C.M.A.No.3929 of 2019

GPL (CO)
RLP (13/06/2022)